



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/585,524

07/07/2006

Per Munk Nielsen

10578.204-US

7930

25908 7590 11/13/2009
NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

EXAMINER

WILLIAMS, LELA

ART UNIT

PAPER NUMBER

1794

NOTIFICATION DATE

DELIVERY MODE

11/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patents-US-NY@novozymes.com

Office Action Summary	Application No. 10/585,524	Applicant(s) NIELSEN, PER MUNK	
	Examiner LELA S. WILLIAMS	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/07/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 6, 7, 11, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Winterbottom et al. CH Patent No. 356,659.

Winterbottom et al. discloses a method for producing a food product which comprises contacting meat with lactobionic acid (pg. 2, lines 15-20 & pg. 3, line 24). Slaughtered poultry is submerged into the lactobionic acid containing solution, for a time of 30 mins to 4 hrs (marinate), and allowed to freeze; the poultry is then packed and distributed to the market place (pg.1, lines 26-31 & pg. 5, lines 18-22). Winterbottom also discloses the poultry will be cooked (pg. 5, line 9), therefore becoming heated.

3. Claims 1, 3, 5, 6, 7, 11, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Winterbottom et al. U.S Patent No. 2,930,702.

Winterbottom et al. discloses a method for producing a food product which comprises contacting meat with lactobionic acid (col. 1, line 15, col.2, line 10, & col. 3, line 1). Slaughtered poultry is submerged into an antibiotic solution, containing 3 to 30% by weight of lactobionic acid (col. 3, line 31) and allowed to freeze for at least 30 minutes, after which, the poultry is then

Art Unit: 1794

packed and distributed to the market place (col.4, lines 6-15). The poultry will be cooked (col. 3, line 70), therefore becoming heated.

4. Claims 1, 2, 8-10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roselle et al. U. S. Pat. No. 6,773,737.

Roselle discloses a method for treating food products with a solution containing calcium lactobionate (col. 1, line 45 & col. 6, line 63). The food product can be in the form of beef, pork, chicken, and shellfish. Ground (minced) beef or turkey and fish cakes (of which surimi would be consider since it is defined as "ground meat") and fish cakes are also disclosed, as well as emulsified meat product, such as bologna, hot dogs, and sausages (col. 11, lines 3-10).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 1794

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winterbottom et al. CH Patent No. 356,659 or Winterbottom et al. U.S Patent No. 2,930,702 or Roselle et al. U. S. Pat. No. 6,773,737 in view of Halden et al. EP 0 354 262.

Winterbottom et al. and Roselle et al. all disclose treating a food product with a lactobionic acid containing solution, resulting in a meat product containing lactobionic acid. The references are silent concerning marinating the meat by tumbling, however given that Halden teaches marinating meat using tumbling procedures (pg. 2, line 26) along with it being a well known procedure in the art, it would have been obvious to one of ordinary skill to use said procedure since it is known to allow for more penetration of the desired marinade (pg. 2, line 32).

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winterbottom et al. CH Patent No. 356,659 or Winterbottom et al. U.S Patent No. 2,930,702 or Roselle et al. U. S. Pat. No. 6,773,737 in view of Hayashabira GB Patent No. 1 325 727.

Art Unit: 1794

Winterbottom et al. and Roselle et al. all disclose treating a food product with a lactobionic acid containing solution, resulting in a meat product containing lactobionic acid. The references are silent concerning how the lactobionic acid is produced. Hayashabira discloses producing lactobionic acid from lactose by enzymatic oxidation (pg. 1, lines 71-85). It would have been within the ambit of one of ordinary skill to manufacture said acid enzymatically since it is a known formation source in the art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. FR 556 064 and U.S. Patent No. 6,045,990 are cumulative to the rejection of records. U.S Patent Nos. 4,214,518 and 5,714,188 disclose the use of tumbling to marinate meat products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LELA S. WILLIAMS whose telephone number is (571)270-1126. The examiner can normally be reached on Monday to Thursday from 7:30am-5pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LELA S. WILLIAMS/
Examiner, Art Unit 1794

/L. S. W. /
Examiner, Art Unit 1794

/Callie E. Shosho/
Supervisory Patent Examiner, Art Unit 1794